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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,751	01/21/2002	Michael Paul Minneman	DBMOP102USB	5457

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EXAMINER

SIKDER, MOHAMMAD YUNUS

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/053,751	Applicant(s) MINNEMAN ET AL.	
	Examiner MOHAMMAD Y SIKDER	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Group II including claims 6-11 dated 11/24/03 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

As a result of election claims 1-5, 12-18 are withdrawn from consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-7, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber et al (6,424,413).

Weber et al (6,424,413) shows (see fig. 1C):

a) a spherical volume having walls 1a of a material for reflecting light, a light inlet 3 and a light outlet 11d, and a diameter axis bounds two hemispheres of the spherical volume, the light inlet 3 is in at least one hemisphere of the spherical volume, the light outlet 11d is in the other hemisphere of the spherical volume, and relative to a diameter

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axis perpendicular to the first mentioned diameter axis, the light outlet 11d is offset, as claimed in claims 6, 9,

b) the light outlet 11d has an axis, and the light outlet axis is non-perpendicular to the first mentioned diameter axis, as claimed in claims 7, 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

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Weber et al (6,424,413).

As set forth above, Weber et al (6,424,413) discloses all the element as claimed. However, it is not clear if the prior art shows the light outlet axis is at an angle of about 35 degrees relative to a line parallel to the first mentioned axis offset from a diameter axis of the spherical volume.

In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) Sifting the location of an element would not have modified the operation of device. In re Kuhle, 526 F.2d 553, 188 USPQ7 (CCPA 1975) The particular placement of an element was held to be obvious.

Weber et al (6,424,413) discloses the claimed invention except for the rearrangement of the light outlet axis is at an angle of about 35 degrees relative to a line parallel to the first mentioned axis offset from a diameter axis of the spherical volume. It would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange the light outlet axis , since it have been held that a mere rearrangement of element without modification of the operation of the device involves only routine skill in the art. One would have been motivated to rearrange light outlet axis for the purpose of better viewing of the object.

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CONTACT INFORMATION

Papers related to this application may be submitted to Group 2870 by facsimile transmission. Papers should be faxed to Group 2870 via the PTO Fax center located in the Crystal Plaza 4. Faxing of such papers must conform with the notice published in the official Gazette, 1096 OG 30 (November 15, 1989). The CP-4 Fax Center number is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application should be directed to M. Sikder whose telephone number is (703) 305-5471.


MOHAMMAD SIKDER
PRIMARY EXAMINER

February 8, 2004